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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,505	05/15/2001	Naoaki Niwa	D-1082	7890
32628	7590	03/08/2006	EXAMINER	
KANESAKA BERNER AND PARTNERS LLP SUITE 300, 1700 DIAGONAL RD ALEXANDRIA, VA 22314-2848			NELSON, FREDA ANN	
			ART UNIT	PAPER NUMBER
			3639	
DATE MAILED: 03/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/854,505	NIWA, NAOAKI	
	Examiner	Art Unit	
	Freida A. Nelson	3639	

.. The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 February 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 7-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

The amendment received on December 21, 2005 is acknowledged and entered. Claims 1-5 and 7-16 have been amended. No claims have been added. Claims 1-5 and 7-16 are currently pending.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 22, 2006 has been entered.

### ***Response to Amendment and Arguments***

Applicant's arguments with respect to claims 1-5 and 7-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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1. Claim 1-2, 5, 10-11, 13 and 16 are rejected under 35 U.S.C. 102(a) as being anticipated by Seiichiro et al. (JP 2001-312664).

As for claim 1, Seiichiro et al. disclose a method of conducting a business with a treating apparatus, comprising:

- installing the treating apparatus to a user (FIG. 1);
- connecting the treating apparatus at the user to a server on a seller side of the treating apparatus through an Internet (paragraph [0006]);
- using the treating apparatus upon request from the user and permission of the seller side through the Internet (paragraph [0031]);
- measuring a using time of the treating apparatus by the user through the Internet (paragraph [0005]); and
- charging a fee of the treating apparatus based on the using time of the treating apparatus, said fee of the treating apparatus including a part, based on the using time, of an entire cost of the treating apparatus (paragraph [0005],[0027]).

As for claim 2, Seiichiro et al. disclose a method of conducting a business with a treating apparatus according to claim further comprising downloading a program to be used for the apparatus from the server through the Internet (paragraph 0012).

As for claim 5, Seiichiro et al. disclose a method of conducting a business with a treating apparatus according to claim 1, wherein said treating apparatus is at least one a measuring apparatus and an analyzing apparatus, and the fee is one of a whole cost and a part thereof (paragraphs [0003]-[0004]).

As for claim 10, Seiichiro et al. disclose a system of conducting a business with a treating apparatus, comprising:

- a terminal connected to the treating apparatus on a user's side, said terminal connecting the treating apparatus to an Internet (paragraph [0006]); and
- accounting means installed at a server on a seller's side and connected to the Internet, said accounting means being actuated whenever the treating apparatus is used, calculating a fee according to a using condition of the treating apparatus through the Internet and charging the fee to the user, said fee including a part, based on the using time, of an entire cost of the treating apparatus (paragraphs [0002]-[0010]).

As for claim 11, Seiichiro et al. disclose a system according to claim 10, wherein said accounting means calculates an amount to be charged, of the treating apparatus based on a processing content and an operation time of the treating apparatus through the Internet (paragraphs [0003]-[0004]).

As for claim 13, Seiichiro et al. disclose a system of conducting a business with a treating apparatus according to claim wherein said treating apparatus at least one of a

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measuring apparatus and an analyzing apparatus, and the fee is one of a whole cost and a part thereof (paragraphs [0003]-[0004]).

As for claim 16, Seiichiro et al. disclose a system of conducting a business with a treating apparatus according to claim 10, further comprising use approval determining means installed the server between the terminal and the accounting means, said use approval determining means permitting use of the treating apparatus upon request from a user and starting said accounting means (paragraph [0010]).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 3-4, 7-9, 12, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seiichiro et al. (JP 2001-312664), in view of Rive (Patent Number 6,281,894).

As for claims 3-4, Seiichiro et al. do not disclose a method conducting a business with a treating apparatus according to claim 1, further comprising diagnosing a fault of the treating apparatus through the Internet. Rive discloses that the corrective operation can be performed remotely, for example using a network communications over a network (e.g., the Internet) by a support service (col. 15, lines 35-46); to this end, a remote support service may establish a network connection to the computer system 50 (e.g., a TCP/IP connection via a dialup or DSL modem) and communicate with a client application program installed on the computer system to remotely take control of operations of the computer system 50 (col. 11, lines 55-63); in one embodiment, where the computer system is leased, the computer system and the support provided at step 206 may be provided for a fixed monthly fee, or other periodic fee, or a one-time lump sum payment (col. 15, lines 23-32); for example, the end user may have purchased a computer system outright, and may pay a monthly subscription fee for only various applications installed on the computer system as well as for technical support on a month to month basis; alternatively, the end user may pay a periodic lease and subscription fee to the provider for the lease (or rental) of the computer equipment, the applications installed thereon, and technical support for both

the computer system hardware and the installed application software; and in a further embodiment, the end user may pay an up-front lump-sum payment for the computer hardware and/or the applications, and pay a reduced subscription fee for technical support with respect to the computer system and installed software (col. 18, lines 33-46); and a fourth aspect of the support service commences at step 218, with a user request that a new application, or other software component, be installed upon the supported computer system 50; and at step 220, the support service makes a determination as to whether the relevant application or other software component is supported. If not, the user is then advised to install the application or software component within the unsupported partition 56, with the understanding that no technical support for this application is provided and should the second partition become corrupted or experience a failure, only corrective actions described above at steps 212 and 214 may be executed, wherein the content of the unsupported partition 56 is restored to an original state (col. 16, lines 18-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Seiichiro et al. to include the feature of Rive in order to remotely diagnosis a faulty or failed computer system.

As for claims 7-8 and 14, Seiichiro et al. do not disclose a method of conducting a business with a treating apparatus, wherein said fee is also calculated based on a using condition including one of a program to be used, downloading a program of the treating apparatus, and diagnosing a fault of the treating apparatus in case of a fault condition. Rive discloses that the corrective operation can be performed remotely, for example using a network communications over a network (e.g., the Internet) by a support service; to this end, a remote support service may establish a network connection to the computer system 50 (e.g., a TCP/IP connection via a dialup or DSL modem) and communicate with a client application program installed on the computer system to remotely take control of operations of the computer system 50 (col. 11, lines 55-63); in one embodiment, where the computer system is leased, the computer system and the support provided at step 206 may be provided for a fixed monthly fee, or other periodic fee, or a one-time lump sum payment (col. 15, lines 23-32); for example, the end user may have purchased a computer system outright, and may pay a monthly subscription fee for only various applications installed on the computer system as well as for technical support on a month to month basis; alternatively, the end user may pay a periodic lease and subscription fee to the provider for the lease (or rental) of the computer equipment, the applications installed thereon, and technical support for both the computer system hardware and the installed application software; and in a further embodiment, the end user may pay an up-front lump-sum payment for the computer hardware and/or the applications, and pay a reduced subscription fee for technical support with respect to the computer system and installed software (col. 18, lines 33-46); and a fourth aspect of the support service commences at step 218, with a user request that a new application, or other software component, be installed upon the supported computer system 50; and at step 220, the support service makes a determination as to whether the relevant application or other software component is

supported. If not, the user is then advised to install the application or software component within the unsupported partition 56, with the understanding that no technical support for this application is provided and should the second partition become corrupted or experience a failure, only corrective actions described above at steps 212 and 214 may be executed, wherein the content of the unsupported partition 56 is restored to an original state (col. 16, lines 18-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Seiichiro et al. to include the feature of Rive in order to provide the customer with support needed to maintain the operation of the apparatus.

As for claims 9 and 15, Seiichiro et al. do not disclose a method of conducting a business with a treating apparatus, wherein said seller side provides an update program and a new program for the treating apparatus to the server to allow the user to access to information of the update and new programs. Rive discloses that updating of the supported partition 54 may be done remotely and with respect to a computer system 50 that is already in possession of the end user. Alternatively, the support service may configure a new computer system 50 to include a supported partition 54 having the content desired by the end user, and then replace the computer system 50 that is in possession of the end user with a newly configured computer system 50 (col. 17, lines 13-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Seiichiro et al. to include the feature of Rive in order to provide the customer with online access to updated or upgraded programs to prevent the customer from having to pay for the support service's time.

As for claim 12, Seiichiro et al. do not disclose a system of conducting a business with a treating apparatus according to claim 10, further comprising means for storing information used by the treating apparatus at the server, said storing means including a program to be used for the apparatus and a fault-diagnosing program. Rive discloses that if corruption from a modification, or any other fault, pertaining to the supported partition 54 is detected (e.g., automatically or by the user) at step 208, the provision of support may constitute an overwrite operation of the supported partition 54 with the content of the mirror partition 58 so as to restore the reference state to the supported partition 54 wherein steps 208 and 210 may manually be performed by a user on-site, may manually be performed by a support service either on-site or remotely via a network connection, or may be fully automated utilizing software installed on the computer system 50 of the end user (col. 15, lines 35-46); and the corrective operation can be performed remotely, for example using a network communications over a network (e.g., the Internet) by a support service; to this end, a remote support service may establish a network connection to the computer system 50 (e.g., a TCP/IP connection via a dialup or DSL modem) and communicate with a client application program installed on the computer system to remotely take control of operations of the computer system 50 (col. 11, lines 55-63); and at step 270, a back-up support function, as described above with respect to step 216, is performed at step 270; and this may take

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the form of an automated or manual local back-up operation, or an automated or manual remote backup operation performed to a storage location operated by the supplier. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Seiichiro et al. to include the feature of Rive in order to provide the customer with a storage backup as a safety mechanism.

***Conclusion***

3. The examiner has cited prior art of interest, for example:

1) Shindo (Patent Number 6,083,251), which discloses an eye treatment method and apparatus.

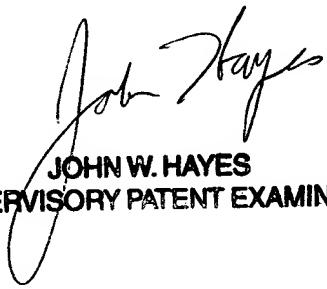
2) Joo (KR 2001097359), which discloses a health care system and control method thereof.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FAN 02/28/2006



JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER